

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:10-CR-93

v.

HON. ROBERT HOLMES BELL

ALONZO BOOSE,

Defendant.

/

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant Alonzo Boose's ex parte application pursuant to Rule 17(b) of the Federal Rules of Criminal Procedure for subpoenas and payment of witness fees for four witnesses identified in his application. (Dkt. No. 14.)

Under Rule 17(b), in order to obtain a subpoena at government expense, an indigent defendant must make a showing that the presence of the witness is necessary to an adequate defense. Fed. R. Crim. P. 17(b). A witness is necessary if his/her testimony is relevant, material and useful to an adequate defense. *United States v. Moore*, 917 F.2d 215, 230 (6th Cir. 1990) (citing *United States v. Greene*, 497 F.2d 1068, 1079 (7th Cir. 1974)). Defendant must allege facts related to these witnesses which, if true, would make their testimony relevant to any issue in the case. *United States v. Barker*, 553 F.2d 1013, 1020 (6th Cir. 1977) (citing *Greenwell v. United States*, 317 F.2d 108, 110 (D.C. Cir. 1963)).

Defendant has not made the showing required by Rule 17(b). Defendant's application states that the witnesses are necessary for an adequate defense, but it does not provide any

indication as to why the witnesses are necessary. Rule 17(b) does not impose a heavy burden, and it does not require Defendant to divulge the theory of his defense to the government, but something more than a general restatement of the language of the rule is needed in order for the Court to evaluate Defendant's request.

Accordingly, Defendant's application (Dkt. No. 14) is hereby **DENIED WITHOUT PREJUDICE.**

Dated: June 17, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE